

REMARKS

The last Office Action has been carefully considered.

It is noted that claims 1-8 and 10-12 are rejected under 35 U.S.C. 102(b) over the patent to Kaba.

Claim 9 is rejected under 35 U.S.C. 103(a) over the patent to Kaba in view of the patent to Alanara.

After carefully considering the Examiner's grounds for the rejection of the claims, applicants have amended claims 1 and 12, the broadest claim on file, so as to more clearly define the present invention and to distinguish it from the present invention.

Before the analysis of the prior art, it is believed to be advisable to explain the subject matter of the present invention.

In accordance with the present invention as defined in the independent claims, a transmission frame and a corresponding telecommunication device are proposed, in which on the one hand in the individual data fields the short message of the data field specific ID code is

provided, which identifies the makeup and/or content of the corresponding data field. On the other hand, additionally in a first data field the short message is provided with a data code which identifies the makeup of the short message, wherein the first ID code includes indications about the data format in the data fields or the number of the data fields or the size of the data fields.

Turning now to the reference MIME-Standards RFC 1521, RFC 2045, RFC 2046, it can be seen that this reference discloses for example that it is possible to determine a makeup of an e-mail with data annexes (Multi-part/Mixed). With an e-mail in MIME-format "multipart/mixed", different regions are separated by a specific sign foil. In a first portion there are informations which deal with the whole message, for example date, sender, addressee, subject, and also the so-called Content-Type "multipart/mixed". In the subsequent portions separated by the specific sign sequence, corresponding different informations are contained, for example text or image data. At the beginning of each of these portions it is indicated of which type the data are, for example text/plain or image/gif.

The informations related to the entire e-mail provide general hints, however not specific indications about the remaining data fields. These informations in particular do not deal with the number, the data format or the

size of the data fields. In contrast, in the applicant's invention as defined in the amended claims 1 and 12, explicitly such indications are provided for the individual data fields. Therefore it is believed that the new features of the present invention as defined in claims 11 and 12 are not disclosed in this reference.

The reference, article of Ahmed Patel does not disclose any details as to in which way a multimedia short message can be made up. This reference also does not teach the new features of the present invention as defined in claims 11 and 12.

International patent document WO 97 26765, does not provide any indications how the individual portions of a short message are concretely identified. There is no information in which portions of the short message the informations about the content or makeup of the total short message or parts of the short message can be found. This reference also does not teach the new features of the present invention.

U.S. patent 5,412,719 to Hamamoto, et al discloses the makeup of a paging message which contains a speech communication. The paging message includes a control information field which has indications about the length and the coding of the speech communications in another

field. The description does not disclose that the field with the stored speech communication additionally has also indications of its content. The new features of the present invention as defined in claims 1 and 12 are also not disclosed in this reference.

The publication Lehrbuch Cemil Betanov, Introduction to X, 400, Artech House, Inc., 1993 discloses a data transmission technology which deals with assembled and electronic messages of several different data types. However, this reference does not disclose how the individual data types are connected with one another in a message. It is however indicated that each body type at the beginning has a pair of administrative informations about the data type stored in the corresponding body part. Whether an ID code is provided additionally in a first data field, with information about the type and makeup of all data fields is not disclosed in this reference. This reference also does not teach the new features of the present invention as defined in the amended claims 1 and 11.

U.S. patent to Keba 5,652,783 discloses a method and an apparatus for selectively encoding digital messages in a communication system. Here a message is formed as follows:

In a first part of a message, a coded address information is

provided, as well as a coded message vector. In a second part of the message, a digital message is provided. When the digital message is a data message, it is coded with an error correcting code. In the case of a speech message, the error correcting coding is dispensed with.

The makeup of the short message in this reference is concretely as follows: In a first part of the short message the address of the receiver is provided. Further, the message vector is provided, which specifies the place of the digital message in the second part of the message, and the used coding message is provided for the digital message. Further, a synchronization information is provided. In the second part of the message, in addition to the data or communication message, a header is provided which contains the control information. This control information gives for example the number of the transmitting message fragments and whether in the subsequent frame a further message fragments can be expected.

This reference therefore does not teach the new features of the present invention as defined in claims 11 and 12, wherein with at least two data fields each is provided with a data field specific ID code, which identifies the makeup and/or the content of the corresponding data field. For the first part of the message such a data field specific ID code is not provided in this

reference.

The patent to Alanara 6,188,809 also does not teach the new features of the present invention as defined in the amended claims 1 and 12.

Summarizing the above presented analysis, it is believed to be important to emphasize that none of the references provides any hint or suggestion that informations about the makeup of a short message of two types within a short message is stored, namely at the beginning of each data field and in a separate data field. Thereby in the present invention the advantage is provided in that with the instructions in the first data field a participant to which the short message is addressed can be informed in an especially simple manner through the transmission of the first data field from the network participant of the telecommunication network to the addressed participant about the makeup and/or the content of the short message. He does not have to evaluate extra data field specific ID codes. With the data specific ID code, the addressed participant with loading down of the associated data field from the network participant can be informed exactly about this data field and thereby for example a reproduction of the data transmitted with the data field can be adapted better to its reproduction possibilities.

The Examiner rejected the claims over the prior art as being anticipated. In connection with this, it is believed to be advisable to cite the decision in re Lindemann Maschinenfabrik GmbH v. American Hoist & Derrick Co., 221 USPQ 481, 485 (Fed. Cir. 1984) in which it was stated:

"Anticipation requires the presence in a single prior art reference disclosure of each and every element of the claimed invention, arranged as in the claim."

Definitely, the references do not disclose each and every element as now defined in claims 1 and 12, and therefore the anticipation rejection should be considered as not tenable and should be withdrawn.

The present invention also can not be derived from the references as a matter of obviousness.

In order to arrive at the applicant's invention from the teachings of the references, the references have to be fundamentally modified by including into them the features of the present invention which were first proposed by the applicant. It is known that in order to arrive at a claimed invention, by modifying the references the cited art must itself contain a suggestion for such a modification.

This principle has also been consistently upheld by the U.S.

Court of Customs and Patent Appeals which, for example, held in its decision in re Randol and Redford (165 USPQ 586) that

Prior patents are references only for what they clearly disclose or suggest; It is not a proper use of a patent as a reference to modify its structure to one which prior art references do not suggest.

Finally, as explained herein above, the present invention provides for the highly advantageous results which can not be accomplished by the solutions proposed in the references. It is well known that in order to support a valid rejection the art must also suggest that it would accomplish applicant's results. This was stated by the Patent Office Board of Appeals, in the case Ex parte Tanaka, Marushima and Takahashi (174 USPQ 38), as follows:

Claims are not rejected on the ground that it would be obvious to one of ordinary skill in the art to rewire prior art devices in order to accomplish applicants' result, since there is no suggestion in prior art that such a result could be accomplished by so modifying prior art devices.

In view of the above presented remarks and amendments, it is believed that claims 1 and 12 should be considered as patentably distinguishing over the art and should be allowed.

As for the dependent claims, these claims depend on claim 1,

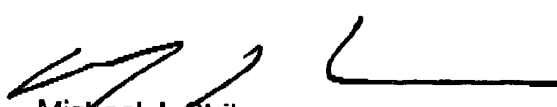


they share its presumably allowable features, and therefore it is respectfully submitted that they should be allowed as well.

Reconsideration and allowance of the present application is most respectfully requested.

Should the Examiner require or consider it advisable that the specification, claims and/or drawings be further amended or corrected in formal respects in order to place this case in condition for final allowance, then it is respectfully requested that such amendments or corrections be carried out by Examiner's Amendment, and the case be passed to issue. Alternatively, should the Examiner feel that a personal discussion might be helpful in advancing this case to allowance, he is invited to telephone the undersigned (at 631-549-4700).

Respectfully submitted,



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